



# North Carolina Department of Health and Human Services Division of Aging and Adult Services

2101 Mail Service Center • Raleigh, North Carolina 27699-2101

Beverly Eaves Perdue, Governor Lanier M. Cansler, Secretary

Dennis W. Streets Director

I am pleased to submit the 2010 North Carolina Long Term Care Ombudsman Program Annual Report for federal fiscal year October 1, 2009 through September 30, 2010.

This Annual Report provides an overview of the work accomplished by community advisory committee volunteers, Regional Long Term Care Ombudsmen and the Office of the State Long Term Care Ombudsman this program year. Long Term Care Ombudsmen strive to protect residents' rights, empower families and educate consumers about long term care issues. Examples of cases are included in the annual report that I believe illustrate the difference North Carolina's Ombudsman Program makes in the lives of long term care residents and their families every day.

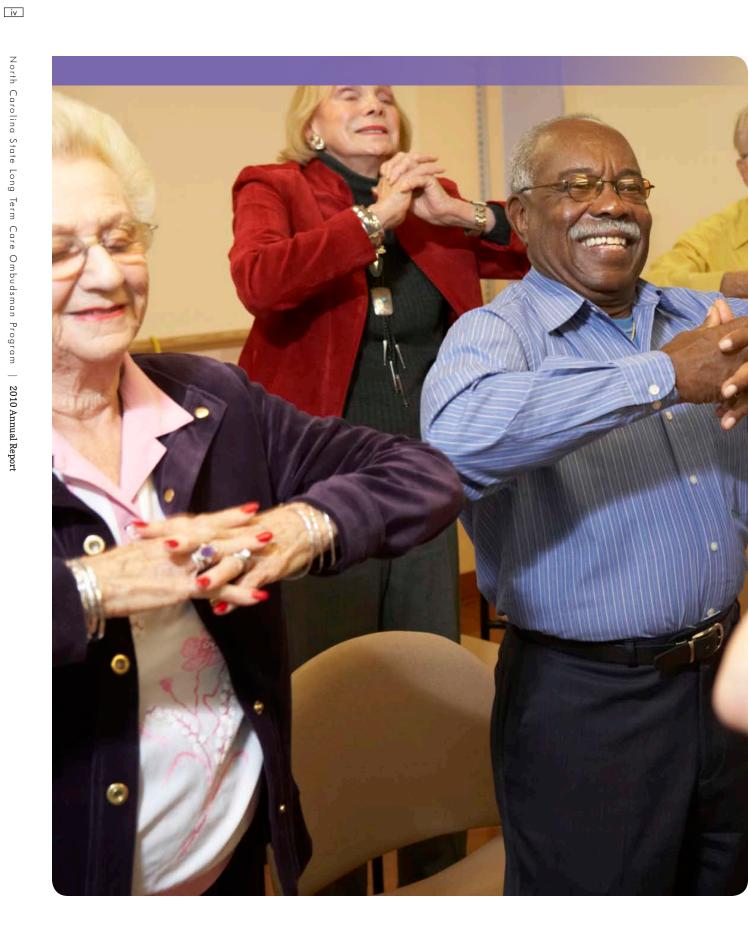
North Carolina General Statute §§ 143B-181.18(8) requires the Office of the State Long Term Care Ombudsman to prepare an annual report. A variety of information and data are included that reflect the Long Term Care Ombudsman Program's activities and successes this year.

The North Carolina Long Term Care Ombudsman Program had a very busy and productive year in 2010. I invite you to contact me if you have questions or comments about the report.

Sincerely,

Sharon C. Wilder

State Long Term Care Ombudsman





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### 2010 Services Overview

### October 1, 2009 - September 30, 2010

State and Regional Long Term Care (LTC) Ombudsman Program

2,820	Complaints handled by the LTC Ombudsman Program
1,645	Complainants assisted by State and Regional LTC Ombudsmen
5,469	Resident visits made in adult care homes and nursing homes
<b>573</b>	Facility licensure surveys observed
120	Resident Council meetings attended
68	Family Council meetings attended
6,716	Technical assistance provided to individuals on long term care issues
2,166	Consultations to LTC providers
443	Training sessions provided for staff in LTC facilities
812	Community education workshops conducted
5,152	Individuals who attended community education, provider in-services or training provided to Community Advisory Committees on Elder Abuse Awareness and Prevention
2,127	Hours spent training community advisory committee members and new ombudsmen

### 2010 - Year in Review

The North Carolina Long Term Care Ombudsman Program completed its first year using the internet-based Ombudsman Program Documentation and Information System (ODIS-NC). The requirements for documentation and reporting through ODIS-NC are different from the former software-based data tracking system used by our Program. The State Office conducted several training sessions throughout the year to help regional ombudsmen become more familiar with the online system, data management, and entry requirements. The small group tutorials were held in a computer lab which made the task of learning a completely new system less daunting and allowed for individualized instruction. The implementation of ODIS-NC also provided an opportunity to meet and train the administrative support staff for the regions that have them. They traveled to Raleigh and participated in a daylong training session specifically designed for them and their role in documenting ombudsman program activities.

The Ombudsman Program
Workgroup reconvened to review
and update the Program's Policy and
Procedures manual. It was a unique
opportunity to see how much the
Program has changed as well
as remained true to its basic tenets of
Residents' Rights and confidentiality.

The workgroup included state staff, regional ombudsmen, and area agency on aging directors. Some of the new topic areas addressed concerns such as how complaints against regional ombudsmen and community advisory committee members would be handled. Other areas of revision involved the initial certification process of regional ombudsmen. There was general consensus that the information needed to be presented in such a way that regional ombudsmen could 1) Easily understand their responsibilities, and 2) Readily explain their role to anyone who challenged whether they were operating within the scope of their position.

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This year, the State Office staff began meeting with a state-level stakeholders group working to expand education and training about new requirements contained in the long term care MDS 3.0 Section Q as well as to establish protocols for referrals to the Money Follows the Person Program and the role of the regional ombudsmen. Each of these initiatives are linked to long term care residents being able to exercise their autonomy and decision making abilities by choosing to return to living in the community rather than staying in a long term care setting. The State Long Term Care Ombudsman Program will continue working with other participating

agencies to ensure all requirements are being met and that the skills and experience of the ombudsmen aren't being overlooked. As part of the MDS 3.0, Section Q provisions, Local Contact Agencies have been designated in areas of the state that do not currently have Community Resource Connections for Aging and Disability. The regional ombudsmen have provided consultations on various long term care issues and collaborated with local multidisciplinary teams which has given the Program greater visibility as resident advocates.

The Office of the State Long Term Care Ombudsman Program along with colleagues in the Adult Services Section of the Division met regularly for several months to develop a plan for the Division's observance of World Elder Abuse Day on June 15<sup>th</sup>. The group received approval to expand observance of this important societal issue by expanding the timeframe to a Vulnerable Adult and Elder Abuse Awareness "month" from May 10th-June 18th, 2010. We chose these dates to coincide with both Mothers' Day and Fathers' Day and to allow time for a concerted effort to educate and raise awareness about elder abuse across North Carolina. We commemorated the recognition through a variety of events and activities, including the issuance of the Governor's Proclamation, decoration of the trees on our campus in life size lavender bows, creation and distribution of over 1,000 lavender lapel pins, and the development and distribution

of Fact Sheets for either print and broadcast media on various topics surrounding elder abuse. Lanier Cansler, Secretary of the Department of Health and Human Services, recorded a statewide public service announcement encouraging all citizens to become more aware and play an active role in recognizing and reporting abuse. The culmination of the observance was an Open House hosted by the Division on June, 15<sup>th</sup>. Guests were invited to watch a ground-breaking documentary entitled "An Age for Justice: Confronting Elder Abuse in America." The DVD portrayed vignettes of several different older adults and/or their families detailing how they were a victim of some form of elder abuse. Viewers were able to share their responses verbally and in writing through a post-screening evaluation form prepared by the creators of the documentary, the National Council on Aging and WITNESS (an international human rights organization that uses video to affect change). The Division also used this as a resource for several different events after World Elder Abuse Awareness Day. Visitors were also able to pick up printed materials from the Information table as well as pay tribute to older family members or clients by writing their names on oversized observance ribbons that were placed either on the wall or on the Remembrance Tree in the lobby of the Division.

The Strategic Alliances for Elders in Long Term Care (S.A.F.E.in-LTC)
Task Force celebrated its Seventh
Anniversary and completed another outstanding year. Task force members participated in community education fairs, long term care trade shows and conducted presentations during the

year. Several of the Taskforce members have been able to share the work of the group with colleagues at state and national conferences and trainings. The Long Term Care and Law Enforcement sub-committee worked with representatives from both local police departments and sheriffs



World Elder Abuse Awareness Day "Honk if you won't stand for Elder Abuse!"



Tie a Purple Ribbon @ the Old Oak Tree



Ali Banks, Guest Speaker - WEAAD 2010



DAAS WEAAD 2010 Steering Committee

from several counties in writing a curriculum focused on law enforcement's role when called to a long term care facility. These individuals were instrumental in providing insight and guidance into the protocols and procedures that would be employed during a criminal investigation in a long term care facility. In addition to key considerations for criminal actions, they also reminded the group of the importance of long term care facilities having an emergency plan for natural and man-made threats or disasters. The new four-hour training will be conducted in a lecture format and will be geared towards administrators and supervisors in adult care homes and nursing homes.

The **Voiceless Victims** three-day course was taught twice at the eastern campus of the North Carolina Justice Academy. The course has gained recognition over the past several years among officers who are pursuing advanced training to further their knowledge and aid in their career advancement. The information gained from surveys completed immediately after the conclusion of the course and later via online web tools has proven very useful in keeping the course fresh and relevant to the needs of officers. The positive responses to the course and recommendations from students who have completed it have led to the Voiceless Victims course being listed in the N.C. Justice Academy catalog of course offerings every semester. It

has become one of the most popular electives for detectives in the Academy's course roster.

Sharon Wilder, the State Long Term Care Ombudsman, was an active participant on the Task Force for the Co-Location of Different Populations in Adult Care Homes which was convened by the N.C. Institute of Medicine. The state-level workgroup examined many of the challenges of having two very different populations, individuals with mental illness and older adults, housed in the same facilities. The N.C. General Assembly charged the group with examining the issues and developing recommendations to address them. The workgroup was comprised of representatives from the N.C. Institute of Medicine, the Division of Health Service Regulation, Long Term Care Ombudsman Program, Division of Mental Health, Developmental Disabilities and Substance Abuse, and a variety of advocacy organizations. The group's findings and recommendations were included in its final report to the N.C. General Assembly for further consideration. The top concerns and observations brought to the forefront were the fact that almost two-thirds of residents in adult care homes, and more than three-fourths of the residents in family care homes had a primary diagnosis of mental illness, intellectual or other developmental disabilities, Alzheimer's or another type of dementia in 2009. Some of these

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individuals have significant behavioral disorders, which can create safety concerns for themselves, other residents, and staff. Staff hired to work in the facilities often do not have the training or expertise to appropriately manage or supervise people with significant behavioral disorders. Plans to address these issues are still underway and significant changes are expected to come from the Task Force's findings.

Ombudsman Elder Rights Specialist, Denise Rogers has played an integral role on the NC Long Term Care Enhancement Coalition. She has served as reviewer of the Coalition's Enhancement grants coordinated by the Division of Health Service Regulation using Civil Money Penalties funds. Nursing homes that participate in the Medicaid/ Medicare program in North Carolina are eligible to apply. This year, the N.C. Coalition for Long Term Care Enhancement offered grant writing seminars in five locations across the state. The Coalition's diverse membership includes individuals from all backgrounds, including profit and non-profit nursing care centers, trade associations, and retirement communities, state and local regulators, horticultural specialists, state and regional long term care advocates, educators, and others. It supports facilities that incorporate environmental enhancements and health care innovations, including The Eden Alternative, The Wellspring

Program, and Pioneer Network. The Coalition also provides educational opportunities through their monthly meetings held in Raleigh and the publication of **Embrace**.

Never doubt that a small group of thoughtful, committed citizens can change the world. It is the only thing that ever has.

Margaret Mead



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### Culture Change Collaborative

Submitted by Regional Ombudsman, Carmelita Karhoff

On September 23, 2010, the Triangle J Area Agency on Aging sponsored a kick-off session for the "Culture Change Learning Collaborative," a pilot project for long term care facilities in Durham County.

The overarching theme was the "The How of Change," a process for successful organizational enhancement through culture change.

Over 50 participants gathered to work in small groups to explore ways to improve care and services to their residents, focusing on the key elements of person-centered thinking, the first 48 hours of a resident's stay, and best practices in food services.

Barbara Frank and Cathie Brady, of B&F Consulting, served as facilitators and faculty, and challenged participants to brainstorm basic changes that can make larger impacts on the residents. TJAAA plans to expand the culture change learning collaborative model to other counties in Region J in 2011.



September's Culture Change Collaborative





Staff members from various long term care facilities worked together to share information, brainstorm ideas and create plans for Culture Change in their facilities at December's 2010 Culture Change Collaborative.

### The Path To Home

Triangle J Area Agency on Aging has a blog to highlight its initiative towards person-centered thinking, also known as "Culture Change."

The blog, "The Path to Home," chronicles the thoughts and insights gathered by the staff during the change effort.

The blog seeks to create a virtual learning circle where many can benefit from the collective wisdom of those who share in our broad vision.

To visit their blog, please go to: http://personcentered.wordpress.com

### "Making it Home" – A Culture Change Initiative

On May 16, 2010, Eden Springs Living Center, an assisted living facility in Durham, NC, was given a "makeover" by members of the Christ The King Moravian Church of Durham. About 75 church members landscaped, painted, hung art pictures, and made small repairs at the facility.

In addition to the facility's facelift, the residents were given a morning out. The residents spent the morning at the church with approximately 35 church members where Bible study, hymns, snacks, Bingo, and children's performances allowed the residents to be pampered as well. Each resident received a new sheet set and bath towel set that church members donated.

Many community vendors, including Dillard's BBQ, Sears, Witherspoon Rose Nursery, Sherwin-Williams, Taylor's Nursery, Lowe's and Home Depot contributed to the transformation of the facility, providing food, paint, and garden plants. The idea for this project stemmed from the **Sowing the Seeds of Culture Change**, a Triangle J Ombudsman Program led culture change initiative.

Durham County Adult Care Home Community Advisory Committee volunteer, Martha Simpson, took the initiative to make a facility "home" to heart and gained the support of her church to make an impact on the residents and staff at Eden Springs.

Jackson Odondi, Eden Springs Administrator, stated "The much needed help has drastically transformed our environment. Thank you all!"



### Long Term Care Ombudsman Program History

The federal Older Americans Act established the Long Term Care Ombudsman Program in 1978. Following the successful completion of pilot ombudsman programs in seven states, authorization for a national Long Term Care Ombudsman Program was enacted requiring that every state establish a Long Term Care Ombudsman Program. In subsequent years, further amendments to the Older Americans Act expanded the jurisdiction and scope of the Long Term Care Ombudsman Program to cover both nursing homes and adult care homes. The broader scope included the creation of a network of trained volunteers, an informal complaint resolution process and systems advocacy responsibilities related to problems impacting residents in long term care facilities.

In 1989, the North Carolina State Long Term Care Ombudsman Program was codified into state law through General Statute 143B-181.15-.25 which mirrors the federal mandates set forth in the Older Americans Act for the program. The legislation includes the responsibilities of the Long Term Care Ombudsman Program administered through an Office of the State Long Term Care Ombudsman as well as the functions of an Office of Regional Long Term Care Ombudsman Program. The North Carolina State Long Term Care Ombudsman Program is located in the Department of Health and Human Services, Division of Aging and Adult Services. The Regional Long Term Care Ombudsman Programs are housed in the 17 Area Agencies on Aging across the state.

# To Whom It May Concern:

This note is in reference to the Ombudsman who came to help us. Since I live in a facility that is very isolated with little or no hope of transportation (nearest store is 12 miles away), we have many issues.

We have had visits from other agencies. We have not yet met anyone of the caliber of our Ombudsman. The Regional Ombudsman's empathy and compassion for us has exceeded all our expectations. Her honest and "tell-it-like-it-is" attitude has helped get much accomplished! We are amazed at the length to which she will go to help us with all our various problems and issues.

The depression at this facility is by far the greatest problem. This ever present depression is caused by the facility itself. All our problems seem to us to be overwhelming. The Ombudsman lifts our spirits by her presence; she has given us hope of overcoming, solving or at least dealing with our problems and issues.

Her resolve when it comes to dealing with the employees and managers, or even owners and administrators is un-relentless. She has earned our trust!

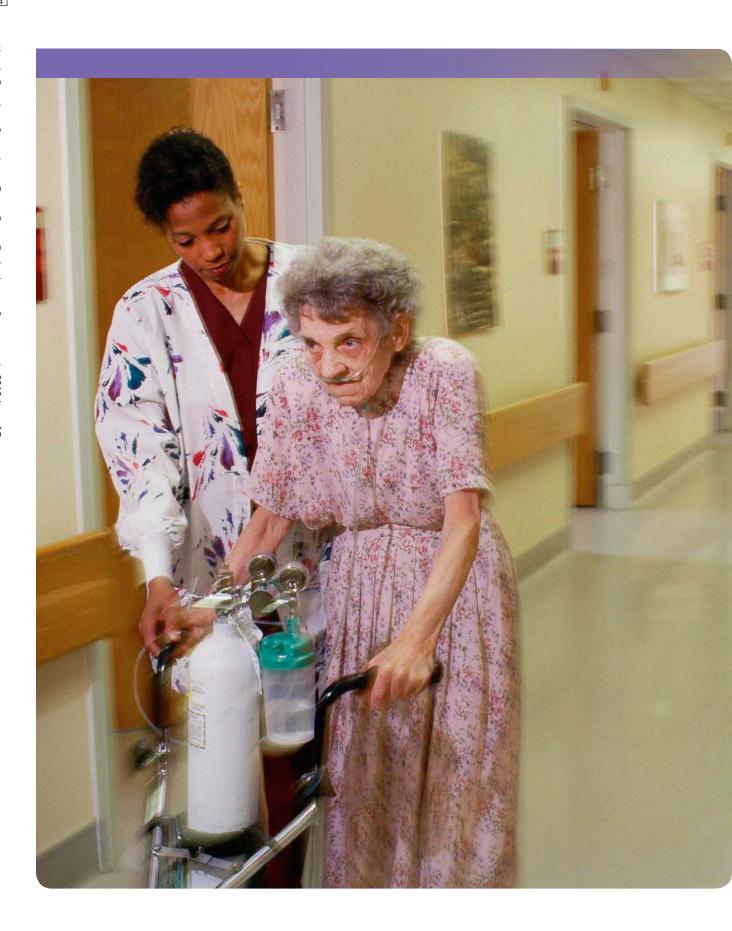
Compiled by residents in a long term care facility

### Purpose

The North Carolina Long Term Care Ombudsman Program's mission is to protect residents' rights and improve the quality of care and life for residents in long term care facilities by providing access and advocacy services that assist residents in protecting their health, safety, welfare, and rights.<sup>1</sup> The program provides information to citizens about the long term care system as well as assistance accessing services. The Long Term Care Ombudsman Program's mandated responsibilities are to:

- Receive and attempt to resolve complaints made by or on behalf of residents in long term care facilities;
- Provide information to the general public on long term care issues;
- Promote community involvement with long term care residents and facilities;
- Work with long term care providers to resolve issues of common concern;
- Assist long term care providers with staff training (particularly on Residents' Rights);
- Train and provide technical assistance to community advisory committee volunteers appointed by county commissioners;
- Collect and report data regarding the number of complaints handled and other program activities;
- Carry out activities for community education and prevention of elder abuse, neglect, and exploitation; and

- Provide information to public agencies, legislators, and others on problems impacting the rights of residents as well as make recommendations for resolution of issues identified.<sup>2</sup>
- <sup>1</sup> 42 USC § 3001 et seq. A copy of relevant sections is attached as Appendix C.
- <sup>2</sup> § 143B-181.150.25 et seq. A copy is attached as Appendix D.



### Long Term Care Ombudsman Program Organization

The State Long Term Care Ombudsman Program is in the Elder Rights and Special Initiatives Section of the Division of Aging and Adult Services within the North Carolina Department of Health and Human Services. The State Long Term Care Ombudsman, along with an Ombudsman Program Specialist and an Ombudsman/Elder Rights Specialist manage day-to-day program administration that includes ensuring all newly hired regional ombudsmen complete the required state certification process and that the Program is in compliance with mandates in the Older Americans

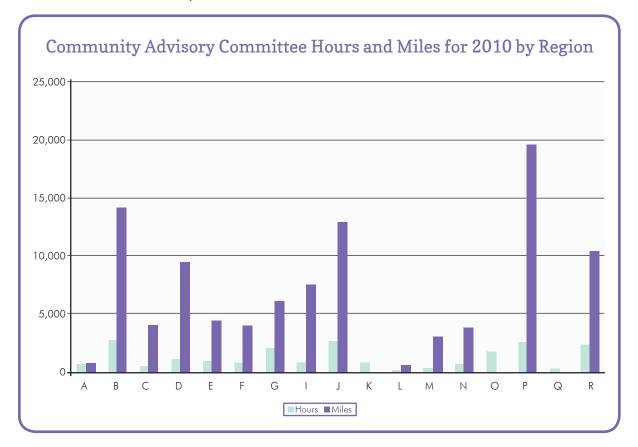


Act as amended and N. C. General Statutes.

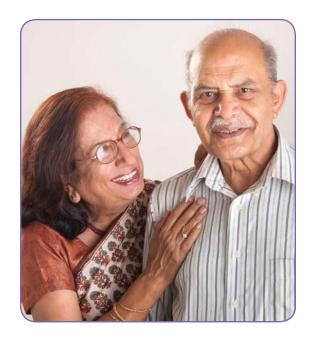
The Regional Long Term Care
Ombudsmen are housed in the 17
Area Agencies on Aging across the
state. The Area Agencies on Aging
are in regional planning councils
known as Councils of Government
which were created by the N.C.
General Assembly in the early 1970's.
As a part of the Area Agency
on Aging, each Regional Long Term
Care Ombudsman Program provides
advocacy and direct services
to long term care residents
in multiple counties.

The community advisory committees were established through state legislation in the mid-70's. Boards of county commissioners are authorized to appoint local citizens to serve as advocates for residents in long term care facilities. Each community advisory committee member appointed must complete 15 hours of initial training prior to assuming official duties mandated by state statute (G.S. 131D-31 and G. S. 131E-128). The regional long term care ombudsmen ensure that each volunteer completes the required training included in the State Long Term Care Ombudsman Program's Policies and Procedures to equip them to serve as 'grassroots advocates' in their communities. There are currently 1,097 trained volunteers actively serving on the adult care home, nursing home or joint community advisory committees. Regional

ombudsmen submit quarterly reports that include the number of volunteer hours logged by committee members. Volunteers are not required to report the number of miles they travel fulfilling their duties; however, many do voluntarily provide this information as part of their Quarterly Activity Reports.







### Long Term Care Ombudsman Program Services

# Information and Consultation to the General Public

Ombudsmen provided technical assistance consultations to **6,716** individuals during 2010. The information most frequently requested involved:

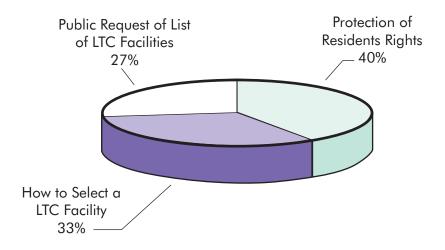
- Protection of Residents' Rights
- Options for selection of a long term care facility
- Request for information about long term care facilities

#### Information and Consultation to Nursing Homes and Adult Care Homes

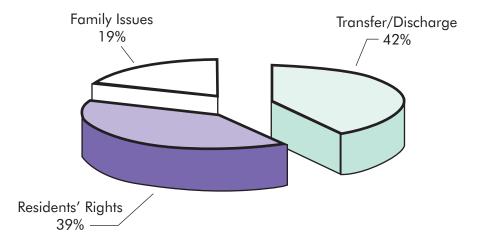
The Program responded to **2,166** consultation requests from long term care providers regarding resident care issues such as:

- Ensuring Residents' Rights are protected when addressing issues such as transfer /discharge from a facility, roommate conflicts, elopements, falls, smoking, visitation and advance directives.
- Explanation of the role of the Long Term Care Ombudsman Program and the Community Advisory Committee.
- How to effectively deal with challenging resident behaviors and family issues.

Information and Consultation to Individuals
Provided by Regional Ombudsmen
Most Frequent Topic
FFY 2010



# Facility Consultations by Regional LTC Ombudsmen Most Frequent Topics FFY 2010



# In-Service Education for Facility Staff

The Long Term Care Ombudsman Program conducted 443 training sessions for long term care facility staff during 2010. Regional and state level ombudsmen conducted educational opportunities for 10,240 long term care staff across the state. They provided training on topics such as:

- Residents' Rights and the Role of the Long Term Care Ombudsmen Program
- Sensitivity to Sensory Losses Associated with Aging
- Elder Abuse Identification and Prevention.

#### **Community Education**

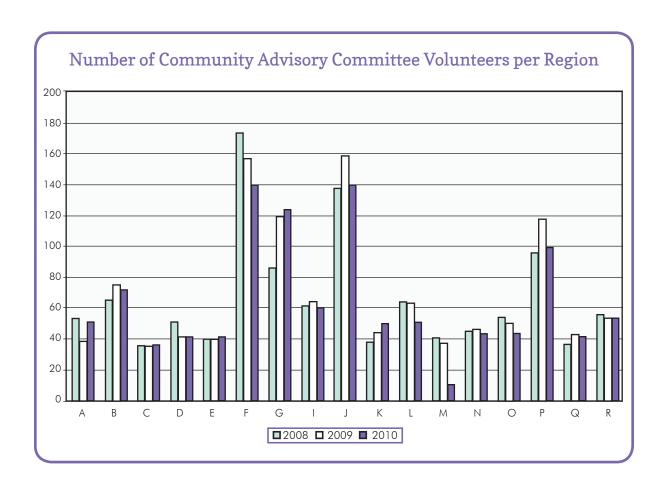
The Long Term Care Ombudsman Program provided **812 educational** sessions for **20,162 individuals** for a variety of community audiences during 2010. Workshop topics included:

- Ombudsman Program Roles and Services
- Understanding Residents' Rights in Long Term Care Facilities
- Recognizing and Reporting Elder Abuse
- Older Adult Sensitivity Training.

Data available through the
Ombudsman Documentation and
Information System indicates 148 of
the educational presentations
conducted for facility staff, community
groups or community advisory
committee members through the
Long Term Care Ombudsman
Program focused on topics related
to Elder Abuse Prevention and
Awareness. A total of 5,152
attendees participated in various
Elder Abuse Prevention and
Awareness educational sessions.

#### **Volunteer Management**

The Long Term Care Ombudsman Program conducted 622 training sessions totaling 2,127 hours of training for community advisory committee volunteers and new regional ombudsmen during 2010. The Program provided consistent support to 1,097 trained, active community advisory committee volunteers. The Regional Ombudsmen provided quarterly training for these volunteers. The three most frequent topics covered were CAC Volunteer Development, Residents' Rights and the LTC Ombudsman Program.



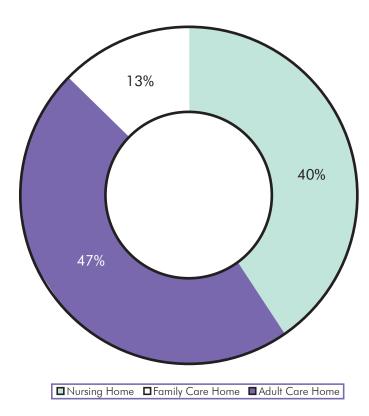
# Ombudsman Program Presence in Long Term Care Facilities

Ombudsman staff and community advisory committee volunteers with the N.C. LTC Ombudsman Program have a regular presence in long term care facilities. The LTC Ombudsmen or CAC volunteers made 5,469 facility visits. In FFY 2010, 2209 visits were made to nursing homes, 2,554 visits to adult care homes and 706 visits to family care homes.

## Ombudsman Training and Certification

Two (2) new Regional Long Term
Care Ombudsmen completed the
State Long Term Care Ombudsman
Program's requirements for
certification during 2010. The
Ombudsman Program certification
process includes five days of intense
training with staff in the Office of the
State Long Term Care Ombudsman;
internships in nursing homes, adult
care homes and family care homes;
and completion of a required reading

Facility Visits by LTC Ombudsmen and CAC Volunteers FFY 2010



list. The State Office also works with the Regional Long Term Care Ombudsman Association to match each newly certified regional ombudsman with a mentor from a pool of more experienced regional ombudsmen. The mentor is available to provide one-on-one assistance for at least one year. Finally, all regional long term care ombudsmen must attend 20 hours of quarterly training each year which is provided or approved by the Office of the State Long Term Care Ombudsman.

In 2010, the topics for training provided by state staff on a quarterly basis for the regional ombudsmen included: Model Approaches for Delivery of Legal Assistance to Older North Carolinians, Overview of the Division of Health Service Regulation, Nursing Home Licensure and Certification Sections, Review of Federal Codes Related to Smoking, Residents' Rights and Facility Policies, Protocols for Reporting Abuse, Neglect and Exploitation, Ombudsman's Role in Special Initiatives, CMS Regulations Update Regarding Hospice Services in SNF, Overview of the Brain Injury Association, Updates from Disability Rights of N.C. and Traumatic Brain Injury Initiative: Needs and Resources for Residents, N.C.'s Ombudsman Data Information System Updates and Clarifications, Adult Care Home Transfer and Discharge Issues, Legislative Overview of Aging Legislation, Universal Precautions for Contagious Diseases, Nursing Home Federal Regulations for

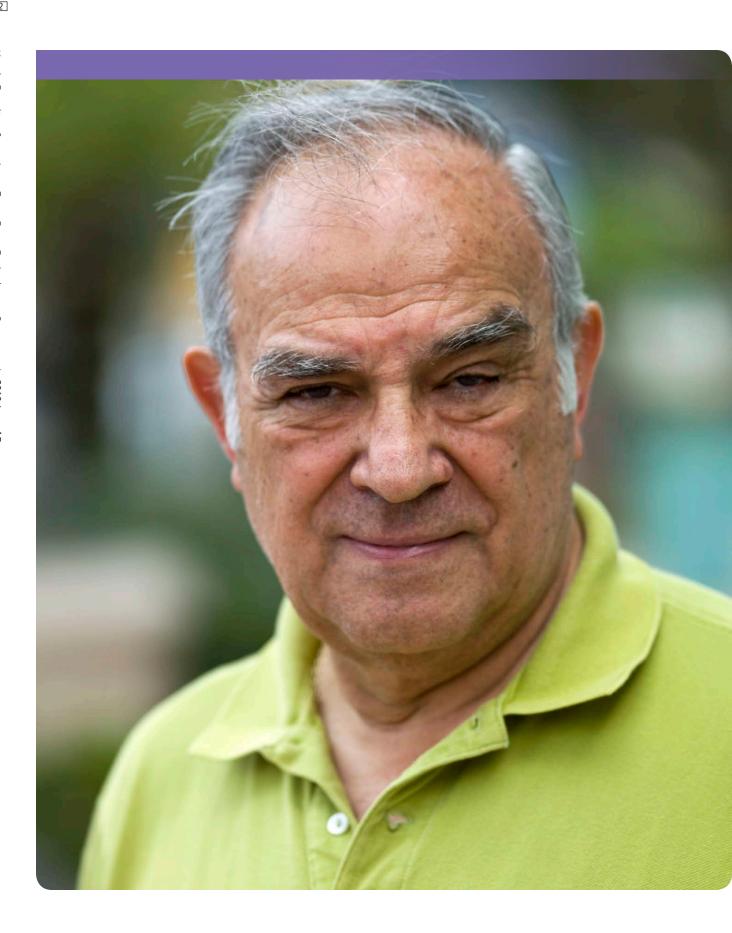
Infection Control and Universal Precautions, and Overview of the Family Caregiver Support Program, Community Resource Connections for Aging and Disabilities and Money Follows the Person.

### Informal Complaint Resolution

The Long Term Care Ombudsman Program receives, investigates, and attempts to resolve complaints made by or on behalf of residents in long term care facilities. Confidentiality is the foundation of the complaint resolution process. Long Term Care Ombudsmen do not disclose the identity of any person registering complaints with the program nor the details of a complaint in any way that could identify the complainant unless written informed consent has been given for disclosure.

Empowerment of the complainant is an important component of complaint resolution. Providing information and resources that enable a person to successfully work through the long term care system is vital for the promotion of residents' rights.

The Long Term Care Ombudsman Program responded to **2,820** complaints from **1,645** individuals in FFY 2010. Sixty percent (60%) of those complaints were related to problems experienced in nursing homes and forty percent (40%) of complaints received involved problems in adult care homes.



# Complaint Trend Summary—2010

The N. C. Long Term Care Ombudsman Program has a major responsibility to ensure that long term care residents receive timely responses by Program representatives —State level and Regional Long Term Care Ombudsmen. Both the federal Older Americans Act. as amended in 2000, and North Carolina General Statute for the Long Term Care Ombudsman Program mandate that certified representatives of the Long Term Care Ombudsman Program provide direct access and advocacy services to nursing home and adult care home residents and provides timely assistance to residents in resolving their grievances about any issues impacting their quality of life or quality of care. Long term care ombudsmen initially respond to complaints by scheduling a private visit with the resident in the facility in order to discuss their grievances and to verify that the resident would like their assistance with addressing the complaints with facility management. When complaints are received on behalf of a resident with a cognitive impairment, an ombudsman will schedule a meeting with both the resident's legal representative and the resident so that within his or her capacity to do so, the resident may contribute to the discussion of the problems and express preferred outcomes for resolution of the issues.

The Long Term Care Ombudsman Program representatives utilize an

informal grievance resolution process that may include mediation to assist residents, their family members and representatives of facility management with resolving complaints. The majority of complaints handled through the Long Term Care Ombudsman Program involve alleaed violations of the Residents' Bill of Rights including complaints that they have been unable to exercise their rights while living in a long term care facility. In North Carolina, the long term care ombudsmen are not authorized to investigate allegations of abuse, neglect, exploitation or other serious regulatory violations. Instead, an ombudsman's role is to provide information and assistance to the complainant to ensure that complaints about abuse, neglect or exploitation are directed to Adult Protective Services staff within the appropriate county department of social services. Ombudsmen assist callers in directing complaints that involve possible violations of state or federal regulations to the appropriate regulatory agency such as the Division of Health Service Regulation for nursing home complaints and the local county department of social services for adult care home complaints.

The N.C. Long Term Care Ombudsman Program now uses a confidential online Documentation and Information System (ODIS-NC) to manage all case-related information and other ombudsmen activities. Once all complaints and other activities are entered into ODIS-NC, the system organizes the information according to internal programming designed to meet the requirements

for the federal annual report to the U.S. Administration on Aging. The Older Americans Act and State statute requires that this reporting system must protect the confidentiality of complainants and be accessible only by certified long term care ombudsmen. The Office of the State Long Term Care Ombudsman compiles and enters the data collected into the National Ombudsman Reporting Tool (ORT) that is then submitted to the U.S. Administration on Aging. After analysis and verification, each state's data are published on AOA's web site at www.aoa.gov.

During FFY 2010, the North Carolina Long Term Care Ombudsman Program underwent a major transformation in data collection systems. The major change involved transitioning from a complaint tracking software program installed on individual computers which required Regional Ombudsmen to manually document, compile and then submit all Program activities and data quarterly to the State Office either by diskette or email. The new Ombudsman Program Documentation and Information System is internet-based and can be accessed from either the office or off site. Activities and complaint information can be entered as soon as they are completed and the system continually organizes all entered information to offer statewide data that can be reviewed by the State Office.

During 2010, 1,645 individual cases were closed that included a total of 2,820 complaints.

A brief review of Program complaint trends for 2010 indicates the following:

- 1,684 nursing home and 1,136 adult care home complaints were responded to by representatives of the N. C. Long Term Care Ombudsman Program.
- 1,933 complaints (69 %) investigated were resolved or partially resolved as a result of interventions by regional ombudsmen on behalf of residents.
- 364 complaints (13%) investigated by Program representatives resulted in a determination that there was no further action to be taken.
- 164 complaints (6%) were withdrawn by the resident or complainant prior to completion of an investigation.
- 89 complaints (3%) could not be resolved to the satisfaction of the resident or complainant. (Example: Complaints from family members and residents about lost or stolen property). Additionally, eight complaints (8) are included in this category that could not be addressed until changes are made in current regulations or legislative action is taken to amend current laws. (Examples: Complaints from family members and residents regarding strict Medicaid/Medicare guidelines for physical therapy).
- 270 complaints (9%) were referred to other agencies and either a final disposition was not obtained or the agencies did not substantiate the complaints.

Charts incorporated in this year's annual report offer illustrations of statewide complaint trends for both nursing homes and adult care homes including complaints related to facility discharges and abuse, neglect and exploitation.

Major trends noted in complaints for 2010 include an overall decrease in the number of complaints investigated from 3,441 to 2, 820. Complaints about Residents' Rights remained about the same as last year for both nursing homes and adult care homes. Complaints about resident care issues in nursing homes declined by 36% this year while similar resident care complaints remained about the same for adult care homes. Regional Ombudsmen reported 295 complaints about facilities discharging residents compared with 230 complaints in 2009

which represents a 28% increase. One trend of concern for 2010 is that complaints about abuse, neglect and exploitation increased 7% in nursing homes and 9% in adult care homes.

An ongoing challenge for the N. C. Long Term Care Ombudsman Program is with ensuring that the Program's mandated presence and timely response to residents in nursing facilities is met. This remains challenging because North Carolina has twice as many adult care homes as nursing facilities and, in general, an adult care home resident has fewer physical challenges in contacting a Regional Ombudsman for assistance. It remains crucial that regional ombudsmen manage their time to ensure that direct services are provided equitably in the different long term care settings.

**Complaint:** A concern brought to, or initiated by, the ombudsman for investigation and action by or on behalf of one or more residents of a long term care facility relating to health, safety, welfare or rights of a resident.

Total FFY 2010 Complaints	Nursing Home Total & Percent	Adult Care Home Total & Percent
Ombudsman Complaint Categories	1,684	1,136
Resident Rights: The right to a dignified existence, self-determination, communication and access to persons inside or outside of the long term care facility.	729 (43%)	571 (50%)
Resident Care: Necessary care and services to maintain the highest practicable physical, mental and psychosocial well-being according to comprehensive assessments and plans of care.	497 (30%)	178 (16%)
Quality of Life: A facility must care for those who live there in a manner and an environment that promotes maintenance and enhancement of each person's quality of life.	239 (14%)	224 (20%)
Administration: A facility must be administered to enable it to use its resources and staff effectively and efficiently to attain or maintain the highest practicable physical, mental and psychosocial well-being of each person who lives in the facility.	102 (6%)	74 (6%)
Not Against Facility: Complaints are against certification/ licensing agency, State Medicaid, abuse by family or guardian, family conflict, Medicare, Mental Health, APS, Social Security, VA.	11 <i>7</i> (7%)	89 (8%)

As a Regional LTC
Ombudsman, nothing makes
me happier than to see
satisfied residents, protection
and enforcement of the
Resident's Bill of Rights
and an overall improved
quality of life, especially
when positive results occur
from my intervention.

"I received a phone call from a concerned family member, whose relative was in an assisted living facility. The residents, along with family members and friends, were in strong disagreement with the facility's new dining policy. The policy stated that all assistive devices (wheelchairs, walkers, canes) would no longer be allowed in the dining room while residents are dining. This meant all walkers and canes would be taken from residents and lined up outside in the hallway along the wall. Residents who rely on wheelchairs would now be lifted out of their wheelchairs and placed in the dining room chairs. Phone calls to my office from residents, family members and friends increased.

I visited the facility and spoke with residents, family members and friends. The results of my visit indicated that 80% of the residents and/or their responsible parties were in disagreement with the new dining room policy.

I consulted with and shared my findings with the facility's Administrator, the State Ombudsman and the county's Adult Home Specialist. There was strong concern the facility was in violation of the North Carolina Adult Care Home Bill of Rights and the Americans with Disabilities Act (ADA)."

Residents shared with me:

- "What if there is a fire and I can't get to my wheelchair on time? I'm just going to throw myself on the floor, crawl and try to escape."
- "I do not like having my personal property taken from me...I am used to always having it by my side."
- "I have noticed that there are more staff attitudes now. This creates more work for the staff and I sometimes notice them carrying two and three wheelchairs at a time."

- "I do not like being removed from my wheelchair. I also do not like the sight of all of those wheelchairs and walkers lined up outside...it affects my dignity and is kind of embarrassing and degrading."
- "It restricts my independence."
- "I do not like having to ask and wait for my wheelchair/walker."

Because of the residents' concerns, the Resident Council in the Independent Living Section of the facility voted against the dining

room policy. The facility is no longer removing the assistive devices. The Resident Council in the Assisted Living Unit obtained medical orders from their physicians to be able to retain their assistive devices while dining as well.

Moral of the story: an Ombudsman's intervention helped preserve the quality of life for the residents and residents were inspired to exercise Resident's Right #11: To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions.

### North Carolina Nursing Homes

#### 2010

Type of Facility	Number of Licensed Facilities	Number of Licensed Beds
Nursing Homes	442	49,707

### North Carolina Adult Care Homes

#### 2010

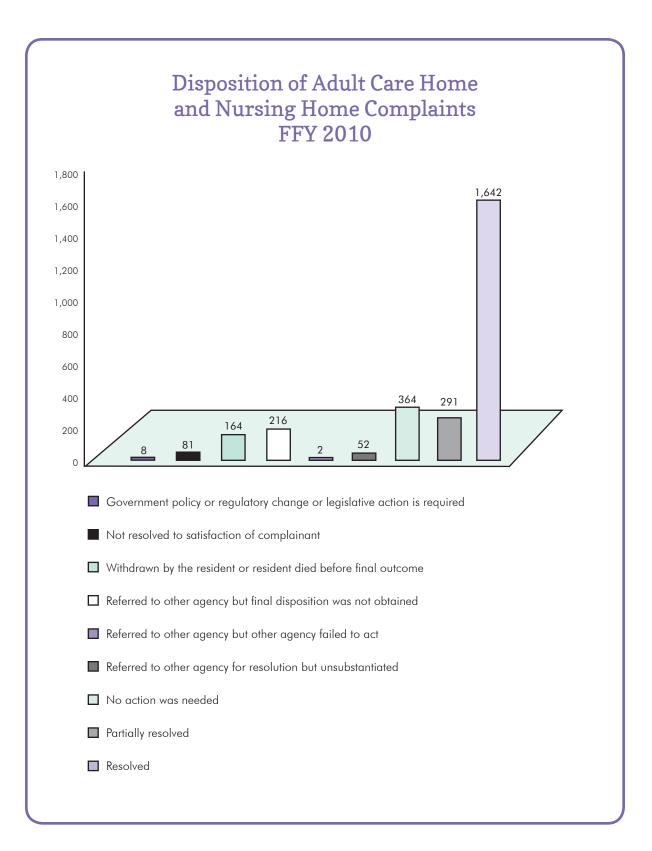
Type of Facility	Number of Licensed Facilities	Number of Licensed Beds
Adult Care Homes	1,245	40,153

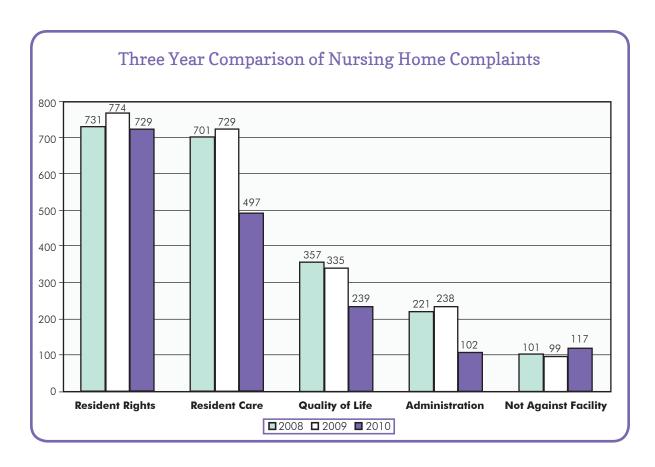
# Top Five Individual Complaints in Nursing Homes FFY 2010

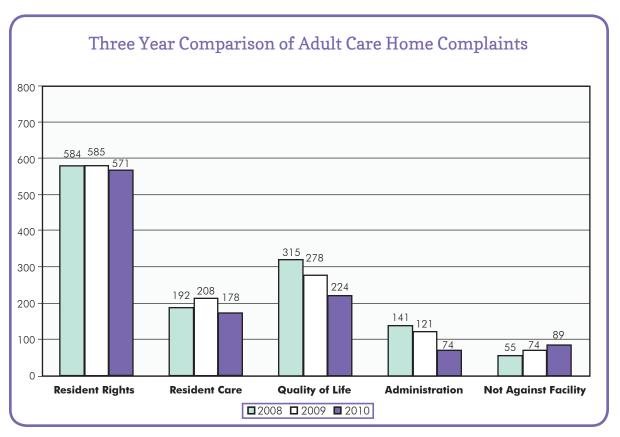
Complaint Category	Number of Complaints	Percentage of Total Complaints: 1,684
Discharge/eviction-planning notice, procedures	196	12%
Dignity, respect, staff attitudes	78	5%
Failure to respond to requests for assistance	73	4%
Medications-administration, organization	71	4%
Personal hygiene-nail care and oral hygiene and adequacy of dressing and grooming	63	4%

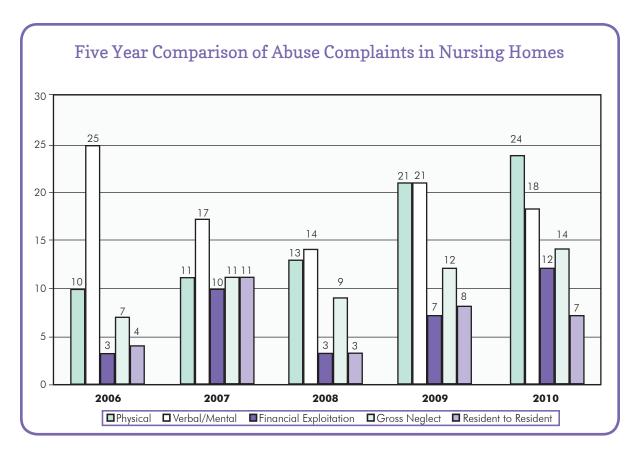
# Top Five Individual Complaints in Adult Care Homes FFY 2010

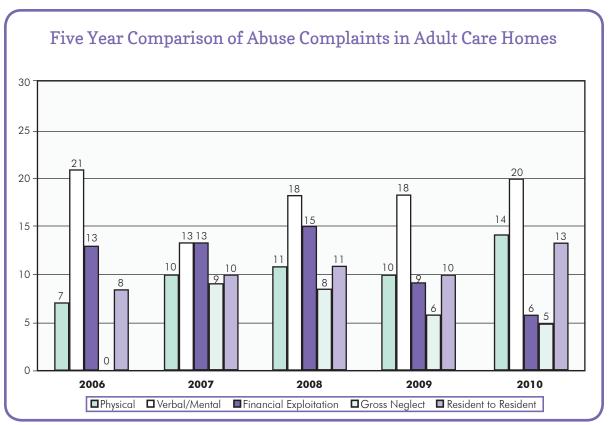
Complaint Category	Number of Complaints	Percentage of Total Complaints: 1,136
Discharge/eviction-planning notice, procedures	99	9%
Personal Funds- mismanaged, access/ information denied, deposits and other money not returned	84	7%
Dignity, respect, staff attitudes	81	7%
Food Service-quantity, quality, variation, choice, condiments, utensils, menu	47	4%
Billing/charges-notice, approval, questionable, accounting wrong or denied	46	4%





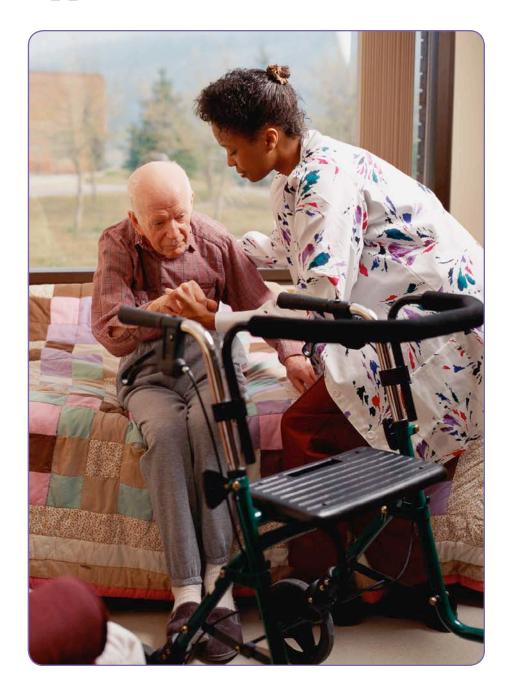


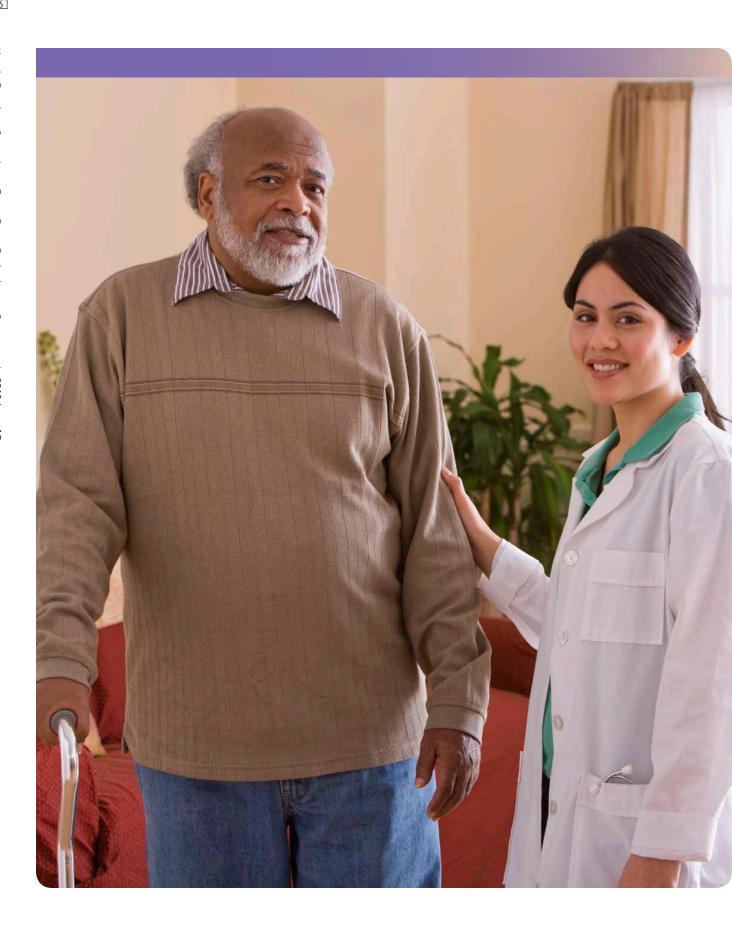






## Appendices





### Appendix A

# North Carolina Adult Care Home Bill of Rights (Condensed Version)

#### Every resident shall have the following rights:

- 1. To be treated with respect, consideration, dignity and full recognition of his or her individuality and right to privacy.
- 2. To receive care and services which are adequate, appropriate and in compliance with relevant federal and state laws and rules and regulations.
- 3. To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
- 4. To be free of mental and physical abuse, neglect and exploitation.
- 5. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.
- 6. To have his or her personal and medical record kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom disclosure may be made except as required by applicable state or federal statute or regulation or by third party contract.
- 7. To receive a reasonable response to his or her requests from the facility administrator and staff.
- 8. To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own initiative at any reasonable hour.
- 9. To have access at any reasonable hour to a telephone where he or she may speak privately.
- 10. To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery and postage.
- 11. To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.
- 12. To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of personal valuables. This space shall be accessible only to the residents and the administrator or supervisor in charge.
- 13. To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.
- 14. To be notified when the facility is issued a provisional license by the North Carolina Department of Health and Human Services and the basis on which the provisional license was issued. The resident's responsible family member or guardian shall also be notified.
- 15. To have freedom to participate by choice in accessible community activities and in social, political, medical and religious resources and to have freedom to refuse such participation.
- 16. To receive upon admission to the facility a copy of this section.
- 17. To not be transferred of discharged from a facility except for medical reasons, their own or other residents' welfare, or nonpayment. Except in cases of immediate jeopardy to health or safety, residents shall be given at least 30 days advance notice of the transfer or discharge and their right to appeal.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

our Regional Ombudsman is:	Telephone:

### North Carolina Bill of Rights for Nursing Home Residents (Condensed Version)

#### Every resident shall have the following rights:

- 1. To be treated with consideration, respect and full recognition of personal dignity and individuality.
- 2. To receive care, treatment, and services that are adequate and appropriate, and in compliance with relevant federal and State rules.
- 3. To receive at the time of admission and during stay, a written statement of services provided by the facility and of related charges. Charges for services not covered under Medicare and Medicaid shall be specified.
- 4. To have on file physician's orders with proposed schedule of medical treatment. Written, signed evidence of prior informed consent to participation in experimental research shall be in patient's file.
- 5. To receive respect and privacy in his medical care program. All personal and medical records are confidential.
- 6. To be free of mental and physical abuse. To be free of chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical records.
- 7. To receive from the administrator or staff of the facility a reasonable response to all requests.
- 8. To receive visitors or have access to privacy in phone use at any reasonable hour. To send and receive mail promptly and unopened, with access to writing materials.
- 9. To manage his/her own financial affairs unless other legal arrangements have been so ordered
- 10. To have privacy in visits by the patient's spouse.
- 11. To enjoy privacy in his/her own room.
- 12. To present grievances and recommend changes in policies and services without fear of reprisal, restraint, interference, coercion or discrimination.
- 13. To not be required to perform services for the facility without resident's consent and written approval of the attending physician.
- 14. To retain, to secure storage for, and to use his personal clothing and possessions, where reasonable.
- 15. To not be transferred or discharged from a facility except for medical, financial, or their own or other patient's welfare. Any such transfer shall require at least five days' notice, unless the attending physician orders immediate transfer, which shall be documented in the patient's medical record.
- 16. To be notified when the facility's license is revoked or made provisional. The responsible party or guardian must be notified, also.

The	Ombudsman	is an advoc	ate for thos	se who live in	long term	care facilities.	For
more	e information	on residen	t rights, cal	I the Regiona	l Long Teri	m Care Ombud	sman

Your Regional Ombudsman is:	Telephone:

### Appendix B

### Data Tables for N.C. Ombudsman Reporting Tool

22. Room assignment/room change/intrafacility transfer

Part I - Cases, Complainants and Complaints		
D. Types of Complaints, by Type of Facility		
	1	
Below and on the following pages provide the total number of complaints for		
complaint category, for nursing facilities and board and care or similar type of facility. The first four major headings are for complaints involving action or		
management of the facility. The last major heading is for complaints against		
facility. See Instructions for additional clarification and definitions of types of		
selected complaint categories.		
	Nursing	B&C, ALF,
Residents' Rights	Facility	RCF, etc.
A. Abuse, Gross Neglect, Exploitation	1	I
1. Abuse, physical (including corporal punishment)	18	11
2. Abuse, sexual	6	
3. Abuse, verbal/psychological (including punishment, seclusion)	18	20
4. Financial exploitation (use categories in section E for less severe financial complaints)	12	6
5. Gross neglect (use categories under Care, Sections F & G for non-willful	14	5
forms of neglect)		
6. Resident-to-resident physical or sexual abuse	7	13
7. Not Used		
B. Access to Information by Resident or Resident's Representative		
8. Access to own records	12	3
9. Access by or to ombudsman/visitors	4	4
10. Access to facility survey/staffing reports/license	0	0
11. Information regarding advance directive	1	1
12. Information regarding medical condition, treatment and any changes	25	10
13. Information regarding rights, benefits, services, the resident's right to	27	10
complain		
14. Information communicated in understandable language	4	1
15. Not Used		
C. Admission, Transfer, Discharge, Eviction	1	1
16. Admission contract and/or procedure	8	3
17. Appeal process - absent, not followed	2	0
18. Bed hold - written notice, refusal to readmit	12	
19. Discharge/eviction - planning, notice, procedure, implementation, inc.	196	99
abandonment		_
20. Discrimination in admission due to condition, disability	1	0
21. Discrimination in admission due to Medicaid status	4	0

23. Not Used		
D. Autonomy, Choice, Preference, Exercise of Rights, Privacy	-	
24. Choose personal physician, pharmacy/hospice/other health care provider	5	7
25. Confinement in facility against will (illegally)	18	11
26. Dignity, respect - staff attitudes	78	81
27. Exercise preference/choice and/or civil/religious rights, individual's	36	39
right to smoke		
28. Exercise right to refuse care/treatment	10	5
29. Language barrier in daily routine	0	1
30. Participate in care planning by resident and/or designated surrogate	13	1
31. Privacy - telephone, visitors, couples, mail	17	14
32. Privacy in treatment, confidentiality	6	6
33. Response to complaints	30	13
34. Reprisal, retaliation	11	12
35. Not Used		
E. Financial, Property (Except for Financial Exploitation)		
36. Billing/charges - notice, approval, questionable, accounting wrong or	55	46
denied (includes overcharge of private pay residents)		
37. Personal funds - mismanaged, access/information denied, deposits and	22	84
other money not returned (report criminal-level misuse of personal funds		
under A.4)		
38. Personal property lost, stolen, used by others, destroyed, withheld from	35	45
resident		
39. Not Used		
Resident Care		
F. Care		
40. Accidental or injury of unknown origin, falls, improper handling	25	9
41. Failure to respond to requests for assistance	73	16
42. Care plan/resident assessment - inadequate, failure to follow plan or	49	21
physician orders (put lack of resident/surrogate involvement under D.30)		
43. Contracture	4	0
44. Medications - administration, organization	71	56
45. Personal hygiene (includes nail care & oral hygiene) and adequacy of	63	25
dressing & grooming		
46. Physician services, including podiatrist	20	8
47. Pressure sores, not turned	20	1
48. Symptoms unattended, including pain, pain not managed, no notice to	35	7
others of changes in condition		
49. Toileting, incontinent care	34	8
50. Tubes - neglect of catheter, gastric, NG tube (use D.28 for	10	0
inappropriate/forced use)		
51. Wandering, failure to accommodate/monitor exit seeking behavior	6	2

Administration  1. Policies, Procedures, Attitudes, Resources (See other complaint headings, of above, for policies on advance directives, due process, billing, management residents' funds)  87. Abuse investigation/reporting, including failure to report  88. Administrator(s) unresponsive, unavailable  89. Grievance procedure (use C for transfer, discharge appeals)  89. Inappropriate or illegal policies, practices, record-keeping  90. Inappropriate or illegal policies, practices, record-keeping  91. Insufficient funds to operate  92. Operator inadequately trained  93. Offering inappropriate level of care (for B&C/similar)  94. Resident or family council/committee interfered with, not supported  95. Not Used  M. Staffing  96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)  97. Shortage of staff  98. Staff training  99. Staff turn-over, over-use of nursing pools  700. Staff unresponsive, unavailable  101. Supervision  102. Eating Assistants  103. Access to information (including survey)  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate	83. Odors	15	6
86. Americans with Disabilities Act (ADA) accessibility  Administration  L. Policies, Procedures, Attitudes, Resources (See other complaint headings, of above, for policies on advance directives, due process, billing, management residents' funds)  87. Abuse investigation/reporting, including failure to report  88. Administrator(s) unresponsive, unavailable  89. Grievance procedure (use C for transfer, discharge appeals)  90. Inappropriate or illegal policies, practices, record-keeping  91. Insufficient funds to operate  92. Operator inadequately trained  93. Offering inappropriate level of care (for B&C/similar)  94. Resident or family council/committee interfered with, not supported  95. Not Used  M. Staffing  96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)  97. Shortage of staff  98. Staff training  99. Staff turn-over, over-use of nursing pools  70. Supervision  90. Staff unresponsive, unavailable  101. Supervision  91. Insupervision  102. Eating Assistants  11. Insupervision  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate	84. Space for activities, dining	0	1
Administration  L. Policies, Procedures, Attitudes, Resources (See other complaint headings, of above, for policies on advance directives, due process, billing, management residents' funds)  87. Abuse investigation/reporting, including failure to report  88. Administrator(s) unresponsive, unavailable  89. Grievance procedure (use C for transfer, discharge appeals)  90. Inappropriate or illegal policies, practices, record-keeping  91. Insufficient funds to operate  92. Operator inadequately trained  93. Offering inappropriate level of care (for B&C/similar)  94. Resident or family council/committee interfered with, not supported  95. Not Used  M. Staffing  96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)  97. Shortage of staff  98. Staff training  99. Staff turn-over, over-use of nursing pools  700. Staff unresponsive, unavailable  101. Supervision  102. Eating Assistants  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate	85. Supplies and linens	3	7
L. Policies, Procedures, Attitudes, Resources (See other complaint headings, of above, for policies on advance directives, due process, billing, management residents' funds)  87. Abuse investigation/reporting, including failure to report  88. Administrator(s) unresponsive, unavailable  89. Grievance procedure (use C for transfer, discharge appeals)  90. Inappropriate or illegal policies, practices, record-keeping  91. Insufficient funds to operate  92. Operator inadequately trained  93. Offering inappropriate level of care (for B&C/similar)  94. Resident or family council/committee interfered with, not supported  95. Not Used  M. Staffing  96. Communication, language barrier (use D.29 if problem involves resident anability to communicate)  97. Shortage of staff  98. Staff training  99. Staff turn-over, over-use of nursing pools  100. Staff unresponsive, unavailable  101. Supervision  102. Eating Assistants  103. Access to information (including survey)  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate	86. Americans with Disabilities Act (ADA) accessibility	0	0
### Advised investigation/reporting, including failure to report  ### 87. Abuse investigation/reporting, including failure to report  ### 88. Administrator(s) unresponsive, unavailable  ### 89. Grievance procedure (use C for transfer, discharge appeals)  ### 90. Inappropriate or illegal policies, practices, record-keeping  ### 91. Insufficient funds to operate  ### 92. Operator inadequately trained  ### 93. Offering inappropriate level of care (for B&C/similar)  ### 94. Resident or family council/committee interfered with, not supported  ### 95. Not Used  ### 96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)  ### 97. Shortage of staff  ### 98. Staff training  ### 99. Staff turn-over, over-use of nursing pools  ### 100. Staff unresponsive, unavailable  ### 101. Supervision  ### 102. Eating Assistants  ### 103. Access to information (including survey)  ### 104. Complaint, response to  ### 105. Decertification/closure  ### 106. Sanction, including Intermediate  ### 107. Operation including Intermediate  ### 108. Administrator(sport)  ### 108. Administrator(sport)  ### 108. Administrator(sport)  ### 108. Administrator(sport)  ### 109. Insufficient failure to report  ### 109. Administrator(sport)  ### 109. Access to information (including survey)  ### 109. Access to information (including survey)  ### 109. Access to including Intermediate  ### 109. Administrator(sport)  ### 109. Access to including Intermediate  ### 109. Administrator(sport)  ### 109. Access to including Intermediate  ### 109. Administrator(sport)  ### 109. Access to including Intermediate  ### 109. Access to including Inter	 Administration		
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89. Grievance procedure (use C for transfer, discharge appeals) 6 1 90. Inappropriate or illegal policies, practices, record-keeping 9 2 91. Insufficient funds to operate 9 3 1 92. Operator inadequately trained 93. Offering inappropriate level of care (for B&C/similar) 94. Resident or family council/committee interfered with, not supported 95. Not Used 96. Communication, language barrier (use D.29 if problem involves resident inability to communicate) 97. Shortage of staff 98. Staff training 99. Staff turn-over, over-use of nursing pools 100. Staff unresponsive, unavailable 101. Supervision 102. Eating Assistants 11.  Not Against Facility N. Certification/Licensing Agency 103. Access to information (including survey) 104. Complaint, response to 105. Decertification/closure 106. Sanction, including Intermediate	87. Abuse investigation/reporting, including failure to report	5	0
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92. Operator inadequately trained 93. Offering inappropriate level of care (for B&C/similar) 1 294. Resident or family council/committee interfered with, not supported 95. Not Used  M. Staffing  96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)  97. Shortage of staff 98. Staff training 99. Staff turn-over, over-use of nursing pools 100. Staff unresponsive, unavailable 101. Supervision 102. Eating Assistants 1  Not Against Facility  N. Certification/Licensing Agency  103. Access to information (including survey) 104. Complaint, response to 105. Decertification/closure 106. Sanction, including Intermediate	90. Inappropriate or illegal policies, practices, record-keeping	0	2
93. Offering inappropriate level of care (for B&C/similar)  94. Resident or family council/committee interfered with, not supported  95. Not Used  M. Staffing  96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)  97. Shortage of staff  98. Staff training  99. Staff turn-over, over-use of nursing pools  100. Staff unresponsive, unavailable  101. Supervision  102. Eating Assistants  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate  1 2  3 3  2 0  3 3  3 20  3 3  4 0  5 0  6 0  7 0  8 0  8 0  9 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0	91. Insufficient funds to operate	0	1
93. Offering inappropriate level of care (for B&C/similar)  94. Resident or family council/committee interfered with, not supported  95. Not Used  M. Staffing  96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)  97. Shortage of staff  98. Staff training  99. Staff turn-over, over-use of nursing pools  100. Staff unresponsive, unavailable  101. Supervision  102. Eating Assistants  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate  1 2  3 3  2 0  3 3  3 20  3 3  4 0  5 0  6 0  7 0  8 0  8 0  9 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0  10 0	92. Operator inadequately trained	3	1
94. Resident or family council/committee interfered with, not supported 95. Not Used  M. Staffing  96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)  97. Shortage of staff 98. Staff training 99. Staff turn-over, over-use of nursing pools 100. Staff unresponsive, unavailable 101. Supervision 102. Eating Assistants  1 Not Against Facility  N. Certification/Licensing Agency  103. Access to information (including survey) 104. Complaint, response to 105. Decertification/closure 106. Sanction, including Intermediate  1 1  1 2 3  3 3 20  1 3 3 20  1 4 1  1 5 1  1 6 1  1 7 1  1 7 1  1 8 1 1  1 9 1  1 9 1  1 9 1  1 1 1  1 1 1  1 1 1  1 1 1 1  1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		1	2
M. Staffing   96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)   97. Shortage of staff   25   8   98. Staff training   5   6   99. Staff turn-over, over-use of nursing pools   7   2   100. Staff unresponsive, unavailable   33   20   101. Supervision   9   16   102. Eating Assistants   1   1   1   1   1   1   1   1   1		0	1
96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)  97. Shortage of staff  98. Staff training  99. Staff turn-over, over-use of nursing pools  100. Staff unresponsive, unavailable  101. Supervision  102. Eating Assistants  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate	95. Not Used		
inability to communicate)       25       8         97. Shortage of staff       25       8         98. Staff training       5       6         99. Staff turn-over, over-use of nursing pools       7       2         100. Staff unresponsive, unavailable       33       20         101. Supervision       9       16         102. Eating Assistants       1       1         Not Against Facility         N. Certification/Licensing Agency         103. Access to information (including survey)       5       0         104. Complaint, response to       3       5         105. Decertification/closure       0       1         106. Sanction, including Intermediate       0       0	M. Staffing		
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98. Staff training 99. Staff turn-over, over-use of nursing pools 100. Staff unresponsive, unavailable 33 20 101. Supervision 9 16 102. Eating Assistants 1 1 1 Not Against Facility N. Certification/Licensing Agency 103. Access to information (including survey) 5 0 104. Complaint, response to 105. Decertification/closure 106. Sanction, including Intermediate 0 0	inability to communicate)		
99. Staff turn-over, over-use of nursing pools 100. Staff unresponsive, unavailable 33 20 101. Supervision 9 16 102. Eating Assistants 1 1  Not Against Facility  N. Certification/Licensing Agency 103. Access to information (including survey) 5 0 104. Complaint, response to 105. Decertification/closure 106. Sanction, including Intermediate 0 0	97. Shortage of staff	25	8
100. Staff unresponsive, unavailable3320101. Supervision916102. Eating Assistants11Not Against FacilityN. Certification/Licensing Agency103. Access to information (including survey)50104. Complaint, response to35105. Decertification/closure01106. Sanction, including Intermediate00	98. Staff training	5	6
101. Supervision       9       16         102. Eating Assistants       1       1         Not Against Facility         N. Certification/Licensing Agency       5       0         103. Access to information (including survey)       5       0         104. Complaint, response to       3       5         105. Decertification/closure       0       1         106. Sanction, including Intermediate       0       0	99. Staff turn-over, over-use of nursing pools	7	2
102. Eating Assistants  1 1  Not Against Facility  N. Certification/Licensing Agency  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate  1 1  1 1  1 1  1 1  1 1  1 1  1 1  1	100. Staff unresponsive, unavailable	33	20
Not Against Facility  N. Certification/Licensing Agency  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate	101. Supervision	9	16
N. Certification/Licensing Agency  103. Access to information (including survey)  104. Complaint, response to  105. Decertification/closure  106. Sanction, including Intermediate  107. Certification/closure  108. Sanction, including Intermediate	102. Eating Assistants	1	1
103. Access to information (including survey)50104. Complaint, response to35105. Decertification/closure01106. Sanction, including Intermediate00	Not Against Facility		
104. Complaint, response to35105. Decertification/closure01106. Sanction, including Intermediate00	N. Certification/Licensing Agency		
104. Complaint, response to35105. Decertification/closure01106. Sanction, including Intermediate00	103. Access to information (including survey)	5	0
106. Sanction, including Intermediate 0 0	104. Complaint, response to	3	5
	105. Decertification/closure	0	1
	106. Sanction, including Intermediate	0	0
107. Survey process 0 0	107. Survey process	0	0
		0	0
109. Transfer or eviction hearing 9 14	109. Transfer or eviction hearing	9	14
110. Not Used			
O. State Medicaid Agency	O. State Medicaid Agency		
111. Access to information, application 5 1	111. Access to information, application	5	1
112. Denial of eligibility 2 1		2	1
	- :	4	0
114. Personal Needs Allowance 2 11	114. Personal Needs Allowance	2	11

115. Services	5	2
116. Not Used		
P. System/Others		
117. Abuse/neglect/abandonment by family member/friend/guardian or,	4	2
while on visit out of facility, any other person		
118. Bed shortage - placement	1	0
119. Facilities operating without a license	1	0
120. Family conflict; interference	17	9
121. Financial exploitation or neglect by family or other not affiliated with facility	9	5
122. Legal - guardianship, conservatorship, power of attorney, wills	18	11
123. Medicare	2	0
124. Mental health, developmental disabilities, including PASRR	1	0
125. Problems with resident's physician/assistant	2	0
126. Protective Service Agency	2	0
127. SSA, SSI, VA, Other Benefits/Agencies	6	5
128. Request for less restrictive placement	19	22
Total, categories A through P	1684	1136
Q. Complaints About Services in Settings Other Than Long-Term Care Facilities or By Outside Term Care Facilities (see instructions)	Provider in	Long-
129. Home care	0	
130. Hospital or hospice	0	
131. Public or other congregate housing not providing personal care	0	
132. Services from outside provider (see instructions)	0	
133. Not Used		
Total, Heading Q.	0	
Total Complaints*	2020	
Total Complaints	2820	

### Appendix C

### Title VII, Chapter 2, Section 712 2000 Amendments to the Older Americans Act

SEC 712 (42 U.S.C. 3058g) STATE LONG TERM CARE OMBUDSMAN PROGRAM.

- (a) Establishment.--
  - (1) In general. In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702 and made available to carry out this chapter, a State agency shall, in accordance with this section
    - (A) establish and operate an Office of the State Long Term Care Ombudsman; and
    - (B) carry out through the Office a State Long Term Care Ombudsman program.
  - (2) Ombudsman. The Office shall be headed by an individual, to be known as the State Long Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long term care and advocacy.
  - (3) Functions. The Ombudsman shall serve on a full time basis, and shall, personally or through representatives of the Office—
    - (A) identify, investigate, and resolve complaints that-
      - (i) are made by, or on behalf of, residents and
      - (ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of
        - (I) providers, or representatives of providers, of long-term care services;
        - (II) public agencies; or
        - (III) health and social service agencies;
    - (B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;
    - (C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

- (D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;
- (E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- (F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;
- (G) (i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long term care facilities and services in the State;
  - (ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and
  - (iii) facilitate public comment on the laws, regulations, policies, and actions;
- (H) (i) provide for training representatives of the Office;
  - (ii) promote the development of citizen organizations, to participate in the program; and
  - (iii) provide technical support for the development of resident and family councils to protect the well being and rights of residents; and
- (I) carry out such other activities as the Assistant Secretary determines to be appropriate
- (4) Contracts and arrangements.--
  - (A) In general. Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.
  - (B) Licensing and certification organizations; associations. The State agency may not enter into the contract or other arrangement described in subparagraph (A) with
    - (i) an agency or organization that is responsible for licensing or certifying long term care services in the State; or
    - (ii) an association (or an affiliate of such an association) of long term care facilities, or of any other residential facilities for older individuals.

- (5) Designation of local ombudsman entities and representatives.--
  - (A) Designation.--In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.
  - (B) Duties.--An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency
    - (i) provide services to protect the health, safety, welfare and rights of residents;
    - (ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;
    - (iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;
    - (iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(v)

- (I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and
- (II) facilitate the ability of the public to comment on the laws, regulation, policies, and actions;
- (vi) support the development of resident and family councils; and
- (vii) carry out other activities that the Ombudsman determines to be appropriate.
- (C) Eligibility for designation.--Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall
  - (i) have demonstrated capability to carry out the responsibilities of the Office;
  - (ii) be free of conflicts of interest and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves;

- (iii) in the case of the entities, be public or nonprofit private entities; and
- (iv) meet such additional requirements as the Ombudsman may specify.
- (D) Policies and procedures.--
  - (i) In general. The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.
  - (ii) Policies. In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.
  - (iii) Confidentiality and disclosure. The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.
- (b) Procedures for Access .--
  - (1) In General. The State shall ensure that representatives of the Office shall have--
    - (A) access to long term care facilities and residents;
    - (B) (i) appropriate access to review the medical and social records of a resident, if
      - (I) the representative has the permission of the resident, or the legal representative of the resident; or
      - (II) the resident is unable to consent to the review and has no legal representative; or
      - (ii) access to the records as is necessary to investigate a complaint if
        - (I) a legal guardian of the resident refuses to give the permission;
        - (II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
        - (III) the representative obtains the approval of the Ombudsman;
    - (C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long term care facilities; and
    - (D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long term care facilities.

- (2) Procedures.--The State agency shall establish procedures to ensure the access described in paragraph (1).
- (c) Reporting System.--The State agency shall establish a statewide uniform reporting system to
  - (1) collect and analyze data relating to complaints and conditions in long term care facilities and to residents for the purpose of identifying and resolving significant problems; and
  - (2) submit the data, on a regular basis, to
    - (A) the agency of the State responsible for licensing or certifying long term care facilities in the State;
    - (B) other State and Federal entities that the Ombudsman determines to be appropriate;
    - (C) the Assistant Secretary; and
    - (D) the National Ombudsman Resource Center established in section 202(a) (21).
- (d) Disclosure.--
  - (1) In general.--The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).
  - (2) Identity of complainant or resident.--The procedures described in paragraph (1) shall
    - (A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and
    - (B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless
      - (i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;
      - (ii) (I) the complainant or resident gives consent orally; and
        - (II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or
      - (iii) the disclosure is required by court order.

- (e) Consultation.--In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long term care.
- (f) Conflict of Interest.—The State agency shall—
  - (1) Ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;
  - (2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;
  - (3) ensure that the Ombudsman--
    - (A) does not have a direct involvement in the licensing or certification of a long term care facility or of a provider of a long term care service;
    - (B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long term care facility or a long term care service;
    - (C) is not employed by, or participating in the management of, a long term care facility; and
    - (D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long term care facility; and
  - (4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as--
    - (A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and
    - (B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.
- (g) Legal Counsel.--The State agency shall ensure that--

- (1) (A) adequate legal counsel is available, and is able, without conflict of interest, to
  - (i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and
  - (ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and
  - (B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and
- (2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.
- (h) Administration.--The State agency shall require the Office to--
  - (1) prepare an annual report--
    - (A) describing the activities carried out by the Office in the year for which the report is prepared;
    - (B) containing and analyzing the data collected under subsection (c);
    - (C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;
    - (D) containing recommendations for
      - (i) improving quality of the care and life of the residents; and
      - (ii) protecting the health, safety, welfare, and rights of the residents;
    - (E) (I) analyzing the success of the program including success in providing services to residents of board (and care facilities and other similar adult care facilities; and
      - (ii) identifying barriers that prevent the optimal operation of the program; and
    - (F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

- (2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulation, and policies as the Office determines to be appropriate;
- (3) (A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding--
  - (i) the problems and concerns of older individuals residing in long term care facilities; and
  - (ii) recommendations related to the problems and concerns; and
  - (B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);
- (4) strengthen and update procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long term care providers, and the Office, that--
  - (A) specify a minimum number of hours of initial training;
  - (B) specify the content of the training, including training relating to--
    - (i) Federal, State, and local laws, regulations, and policies, with respect to long term care facilities in the State;
    - (ii) investigative techniques; and
    - (iii) such other matters as the State determines to be appropriate; and
  - (C) specify an annual number of hours of in service training for all designated representatives;
- (5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative--
  - (A) has received the training required under paragraph (4); and
  - (B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

- (6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under--
  - (A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and
  - (B) the Protection and Advocacy for Mentally III Individuals Act of 1986 (42 U.S.C. 10801 et seq.);
- (7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means;
- (8) coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and
- (9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).
- (i) Liability.--The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.
- (j) Noninterference.--The State shall--
  - (1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;
  - (2) prohibit retaliation and reprisals by a long term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and
  - (3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

### Appendix D

#### Long-Term Care Ombudsman Program.

### Part 14D. North Carolina State Long-term Care Ombudsman Program

#### § 143B-181.15. Long-Term Care Ombudsman Program/Office; policy.

It is the intent of the General Assembly to protect and improve the quality of care and life for residents through the establishment of a program to assist residents and providers in the resolution of complaints or common concerns, to promote community involvement and volunteerism in long-term care facilities, and to educate the public about the long-term care system.

The General Assembly finds that a significant number of older citizens of this State reside in long-term care facilities and are dependent on others to provide their care. It is the further intent of the General Assembly that the Department of Health and Human Services, within available resources and pursuant to its duties under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., ensure that the quality of care and life for these residents is maintained, that necessary reports are made, and that, when necessary, corrective action is taken at the Department level. (1989, c. 403, s. 1; 1995, c. 254, s. 1; 1997-443, s. 11A.118 (a).)

#### § 143B-181.16. Long-Term Care Ombudsman Program/Office; definition.

Unless the content clearly requires otherwise, as used in this Article:

- (1) "Long-term care facility" means any skilled nursing facility and intermediate care facility as defined in G.S. 131A-3(4) or any adult care home as defined in G.S. 131D-20(2).
- (2) "Resident" means any person who is receiving treatment or care in any long-term care facility.
- (3) "State Ombudsman" means the State Ombudsman as defined by the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., who carries out the duties and functions established by this Article.
- (4) "Regional Ombudsman" means a person employed by an Area Agency on Aging to carry out the functions of the Regional Ombudsman Office established by this Article. (1989, c. 403, s. 1; 1995, c. 254, s. 2; c. 535, s. 35.)

### § 143B-181.17. Office of State Long-Term Care Ombudsman Program/Office; establishment.

The Secretary of Department of Health and Human Services shall establish and maintain the Office of State Long-Term Ombudsman in the Division of Aging. The Office shall carry out the functions and duties required by the Older Americans Act of 1965, as amended. This Office shall be headed by a State Ombudsman who is a person qualified by training and with experience in geriatrics and long-term care. The Attorney General shall provide legal staff and advice to this Office. (1989, c. 403, s. 1; 1997-443, s. 11A.118 (a).)

### § 143B-181.18. Office of State Long-Term Care Ombudsman Program/State Ombudsman duties.

The State Ombudsman shall:

- (1) Promote community involvement with long-term care providers and residents of long-term care facilities and serve as liaison between residents, residents' families, facility personnel, and facility administration;
- (2) Supervise the Long-Term Care Program pursuant to rules adopted by the Secretary of the Department of Health and Human Services pursuant to G.S. 143B-10;
- (3) Certify regional ombudsmen. Certification requirements shall include an internship, training in the aging process, complaint resolution, long-term care issues, mediation techniques, recruitment and training of volunteers, and relevant federal, State, and local laws, policies, and standards;
- (4) Attempt to resolve complaints made by or on behalf individuals who are residents of long-term care facilities, which complaints relate to administrative action that may adversely affect the health, safety, or welfare of residents;
- (5) Provide training and technical assistance to regional ombudsmen;
- (6) Establish procedures for appropriate access by regional ombudsmen to long-term care facilities and residents' records including procedures to protect the confidentiality of these records and to ensure that the identity of any complainant or resident will not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.;

- (7) Analyze data relating to complaints and conditions in long-term care facilities to identify significant problems and recommend solutions;
- (8) Prepare an annual report containing data and findings regarding the types of problems experienced and complaints reported by residents as well as recommendations for resolutions of identified long-term care issues;
- (9) Prepare findings regarding public education and community involvement efforts and innovative programs being provided in long-term care facilities; and
- (10) Provide information to public agencies, and through the State Ombudsman, to legislators, and others regarding problems encountered by residents or providers as well as recommendations for resolution. (1989, c. 403, s. 1; 1995, c. 254, s. 3; 1997-443, s. 11A.118(a).)

### § 143B-181.19. Office of Regional Long-Term Care Ombudsman; Regional Ombudsman; duties.

- (a) An Office of Regional Ombudsman Program shall be established in each of the Area Agencies on Aging, and shall be headed by a Regional Ombudsman who shall carry out the functions and duties of the Office. The Area Agency on Aging administration shall provide administrative supervision to each Regional Ombudsman.
- (b) Pursuant to policies and procedures established by the State Office of Long-Term Care Ombudsman, the Regional Ombudsman shall:
  - (1) Promote community involvement with long-term care facilities and residents of long-term care facilities and serve as a liaison between residents, residents' families, facility personnel, and facility administration;
  - (2) Receive and attempt to resolve complaints made by or on behalf of residents in long-term care facilities;
  - (3) Collect data about the number and types of complaints handled;
  - (4) Work with long-term care providers to resolve issues of common concern;
  - (5) Work with long-term care providers to promote increased community involvement;
  - 6) Offer assistance to long-term care providers in staff training regarding residents' rights;
  - (7) Report regularly to the office of State Ombudsman about the data collected and about the activities of the Regional Ombudsman;

- (8) Provide training and technical assistance to the community advisory committees; and
- (9) Provide information to the general public on long-term care issues. (1989, c. 403.)

# § 143B-181.20. State/Regional Long-Term Care Ombudsman; authority to enter; cooperation of government agencies; communication with residents.

- (a) The State and Regional Ombudsman may enter any long-term care facility and may have reasonable access to any resident in the reasonable pursuit of his function. The Ombudsman may communicate privately and confidentially with residents of the facility individually or in groups. The Ombudsman shall have access to the patient records as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. §3001 et seq., and under procedures established by the State Ombudsman pursuant to G.S. 143B-181.18(6). Entry shall be conducted in a manner that will not significantly disrupt the provision of nursing or other care to residents and if the long-term care facility requires registration of all visitors entering the facility, then the State or Regional Ombudsman must also register. Any State or Regional Ombudsman who discloses any information obtained from the patient's records except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., is guilty of a Class 1 misdemeanor.
- (b) The State or Regional Ombudsman shall identify himself as such to the resident, and the resident has the right to refuse to communicate with the Ombudsman.
- (c) The resident has the right to participate in planning any course of action to be taken on his behalf by the State or Regional Ombudsman, and the resident has the right to approve or disapprove any proposed action to be taken on his behalf by the Ombudsman.
- (d) The State or Regional Ombudsman shall meet with the facility administrator or person in charge before any action is taken to allow the facility the opportunity to respond, provide additional information, or take appropriate action to resolve the concern.
- (e) The State and Regional Ombudsman may obtain from any government agency, and this agency shall provide, that cooperation, assistance, services, data, and access to files and records that will enable the Ombudsman to properly perform his duties and exercise his powers, provided this information is not privileged by law.

(f) If the subject of the complaint involves suspected abuse, neglect, or exploitation, the State or Regional Ombudsman shall notify the county department of social services' Adult Protection Services section of the county department of social services, pursuant to Article 6 of Chapter 108A of the General Statutes. (1989, c. 403, s. 1; 1993, c. 539, s. 1038; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 254, s. 4.)

### § 143B-181.21. State/Regional Long-Term Care Ombudsman; resolution of complaints.

- (a) Following receipt of a complaint, the State or Regional Ombudsman shall attempt to resolve the complaint using, whenever possible, informal technique of mediation, conciliation, and persuasion.
- (b) Complaints or conditions adversely affecting residents of long-term care facilities that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the State or Regional Ombudsman to the appropriate licensure agency pursuant to G.S. 131E-100 through 110 and G.S.131D-2. (1989, c. 403.)

### § 143B-181.22. State/Regional Long-Term Care Ombudsman; confidentiality.

The identity of any complainant, resident on whose behalf a complaint is made, or any individual providing information on behalf of the resident or complainant relevant to the attempted resolution of the complaint along with the information produced by the process of complaint resolution is confidential and shall be disclosed only as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. (1989, c. 403, s. 1;1995, c. 254, s. 5.)

### § 143B-181.23. State/Regional Long-Term Care Ombudsman; prohibition of retaliation.

No person shall discriminate or retaliate in any manner against any resident or relative or guardian of a resident, any employee of a long-term care facility, or any other person because of the making of a complaint or providing of information in good faith to the State Ombudsman or Regional Ombudsman. (1989, c. 403.)

### § 143B-181.24. Office of State/Regional Long-Term Care Ombudsman; immunity from liability.

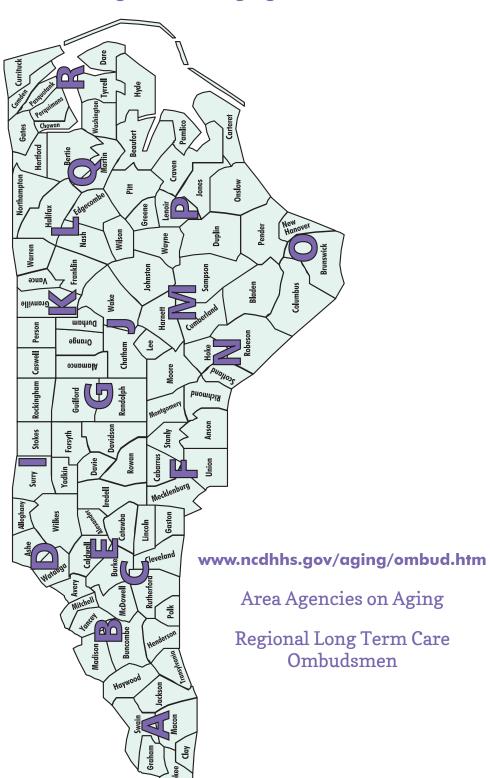
No representative of the Office shall be liable for good faith performance of official duties. (1989, c. 403.)

### § 143B-181.25. Office of State/Regional Long-Term Care Ombudsman; penalty for willful interference.

Willful or unnecessary obstruction with the State or Regional Long-Term Care Ombudsman in the performance of his official duties is a Class 1 misdemeanor. (1989, c. 403; 1993, c. 539, s. 1039; 1994, Ex. Sess., c. 24, s. 14(c).)

### Appendix E

### **Area Agencies on Aging**







State of North Carolina Beverly Eaves Perdue, Governor

Department of Health and Human Services Lanier M. Cansler, Secretary

Dennis W. Streets, Director, Division of Aging and Adult Services Sharon C. Wilder, State Long Term Care Ombudsman

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